NO. CV 01 0387853S	:	SUPERIOR COURT
GENERAL ELECTRIC COMPANY	:	JUDICIAL DISTRICT OF
	:	FAIRFIELD AT BRIDGEPORT
v.		
CITY OF BRIDGEPORT	:	FEBRUARY 22, 2006

MEMORANDUM OF DECISION

This is a real estate tax appeal of property owned by the plaintiff, General Electric Company (GE), located at 1285 Boston Avenue in the city of Bridgeport (city) for the Grand Lists of October 1, 2000, October 1, 2001 and October 1, 2002 based upon the citywide revaluation on the Grand List of October 1, 1999. On October 1, 2003, another citywide revaluation occurred for the Grand Lists of October 1, 2003 and October 1, 2004.

The city's assessor (assessor) determined the fair market value of the subject property to be $14,370,708 as of October 1, 1999 and $14,370,710 as of October 1, 2003. The plaintiff contends that the subject had a fair market value of $4,240,000 as of October 1, 1999 and $3,500,000 as of October 1, 2003.

GE acquired the initial portion of the subject property in 1920. The main structure was constructed in 1915 by Remington Arms for the production of weaponry during World War I. GE made additions to the main structure at various times between 1926 and 1969.

The subject is located on approximately 76.5 acres of land that is zoned for light industrial use (I-LI) and is bounded as follows:

- 942 feet on the south by the four-lane Boston Avenue, also known as the Boston Post Road or U.S. Route 1;
- 2,454 feet on the west side of Bond Street;
- 787 feet on the east side of Asylum Street and
- on the north by North Road.

The main structure is a five-story, mill-type industrial use facility comprised of thirteen interconnected buildings containing 1,393,592 square feet. There is also an adjoining two-story powerhouse located west of the main structure containing a gross building area of 19,437 square feet. The powerhouse provides steam heat and electricity to the main structure via an underground "T"-shaped tunnel. The combined gross building area of the main structure and powerhouse is 1,413,029 square feet.

Stillman Pond, an approximately seven-acre pond located within the subject property, provides water for the subject's fire protection sprinkler system. The United Illuminating Company has a 60-feet wide easement extending along the westerly portion of the property for high tension electrical transmission lines. An existing 50-feet wide right-of-way rail spur enters the property from the south but has been abandoned for over twenty years and is in disrepair. The northwest section of the subject contains a recreational area and a fenced-in landfill that was closed in the 1960s. In addition, parking is available for approximately 2,000 vehicles on the easterly side of the subject's main building.

For decades, GE not only conducted light manufacturing and assembly in the subject's main structure, but also had its headquarters there. During World War II, GE employed over 12,000 people in its manufacturing plant. However, by 1978, GE had downsized to 3,000 employees for wire and cable manufacturing and moved its offices and headquarters elsewhere. At the time of this appeal, GE occupied 35% of the main structure with 75 employees.

As discussed above, the main structure, comprised of thirteen interconnected buildings, has five stories lettered from A through E, with the first floor known as A and the fifth floor known as E. The average ceiling height in industrial areas of the main structure range from thirteen to fifteen feet. There are ten passenger elevators and three freight elevators therein. Six passenger elevators and one freight elevator are in operation. A kitchen area and cafeteria spanning 8,000 square feet on E became vacant prior to 1992. The fourth floor D is primarily vacant with some record storage there. In 2003, the third floor C was partly used as a maintenance shop. On the second floor B, there is a medical center of approximately 4,000 square feet that was upgraded in the 1980s for the use of two doctors and several nurses. GE's present goal is to maintain the subject's physical premises in a safe manner and within its budget.

The town's appraiser, Peter A. Vimini (Vimini) reported that the "[b]uilding suffers from various curable and incurable functional inadequacies. Upper floors have lesser desirability in the marketplace. Also as the building is older, and there have been periodic additions, layout is divided into multiple sections. There is also limited span between central corridor columns, throughout. Current market standards typically entail high bay and clear-span design." (Defendant's Exhibit A, p. 13.) Vimini further stated that "[t]he lower three stories . . . [are] available for occupancy with [the] upper two stories . . . lacking sufficient demand, and having limited utility and desirability in the marketplace. These areas in [all] likelihood would be limited to storage capacity, only." (Defendant's Exhibit A, p. 13.)

Vimini also identified "functional inadequacies, which in [all] likelihood would require modification, revamping and/or replacement with modern systems, where possible" as follows:

- antiquated sewer injectors (from circa 1915);
- limited lavatory facilities in industrial areas;
- lack of air distribution in industrial areas;
- electric feeds from main powerhouse only with the distribution system requiring overhaul for new, individual occupant use and
- insufficient freight elevator access.

(Defendant's Exhibit A, p. 14.)

The plaintiff's appraiser, Christopher J. Hall (Hall), stated that "[a]pproximately 420,000 square feet of one-story manufacturing space was demolished in 1999. Some of the attached building sections required reconstruction of exterior walls and connection of hot water heating pipes. Removal of asbestos pipe wrap in the utility tunnel and at the location of the sprinkler risers was also completed at the same time." (Plaintiff's Exhibit 1, p. 25.)

In Hall's opinion, the highest and best use, as improved, of the subject property was for its continued industrial use on an interim basis. After concluding that the prospective commercial land use value as of October 1, 1999 was $11,600,000, Hall reduced the land value by $9,650,000 for the cost of demolition and arrived at an "as is" estimated land value of only $1,950,000. See Plaintiff's Exhibit 1, p. 49.

William O'Brien (O'Brien), the assessor and a licensed appraiser in Connecticut, disagreed with Hall's opinion regarding the demolition costs. O'Brien testified that substantial value could be obtained in salvaging the bricks and lumber after demolishing the buildings. O'Brien valued the bricks that would likely result from demolition at seven cents per brick for a total estimated value of $670,000. (Transcript of August 12, 2005 (hereinafter Tr.), p. 79.) O'Brien calculated the salvage value of the lumber located in the sub-flooring of the buildings to be forty cents per board foot for a total estimated amount of $4,300,000. (Tr., p. 81.)

In Vimini's opinion, the highest and best use of the subject property is for its continued use as presently improved. Vimini did not consider the highest and best use of the subject as vacant "as there is currently a sufficient availability of commercial and industrial buildings in the area, as of the effective date of appraisal, [so that] it is not cost effective to construct new facilities, encompassing the entire site, given present rent levels from an investment standpoint." (Defendant's Exhibit A, p. 27.)

Of key importance in determining the fair market value of the subject property, as of October 1, 1999 and October 1, 2003, is the highest and best use of the property at the time of valuation, defined as "[t]he reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible and that results in the highest value." The Appraisal of Real Estate (12th Ed. 2001) p. 305; Plaintiff's Exhibit 1, p. 37.

The subject's particular geographic area has an excess supply of older industrial space with functional obsolescence and physical deterioration. See Plaintiff's Exhibit 1, p. 38. Furthermore, both appraisers agree that it would not be cost effective to demolish the subject buildings in order to use the land as vacant because demolition would not produce the highest value as of the date of revaluation in 1999 or 2003.

In his analysis of the highest and best use of the subject property as improved, Hall determined that there is minimal demand for office space in the geographic area where the subject is located. Hall stated that "[t]he general trend and preference is to lease the space as industrial or warehouse space and permit the tenant to finish the space at their cost." (Plaintiff's Exhibit 1, p. 39.) On a similar note, Vimini concluded that it is economically feasible to renovate floors A, B and C for occupancy and limit the use of floors D and E to storage. See Defendant's Exhibit A, pp. 27-28.

Given the physical condition of the property, the court agrees with both appraisers that the highest and best use of the subject property, as of the 1999 and 2003 revaluation dates, was for the continued use of the premises as improved rather than as vacant land.

Both appraisers declined to use the cost approach as a method of valuation because the subject has a high level of functional obsolescence and physical depreciation. See Plaintiff's Exhibit 1, pp. 52-53; Defendant's Exhibit A, p. 29.

As discussed above, in Hall's opinion, the value of the subject property as vacant land as of October 1, 1999 was $11,600,000, but after the seller's demolition costs of $9,650,000 were considered, the valuation would be significantly reduced to $1,950,000. As of October 1, 2003, Hall concluded that the prospective commercial use land value was $12,500,000. After calculating demolition costs of $10,000,000, Hall concluded that the "as is" estimated land value was $2,500,000. See Plaintiff's Exhibit 2, p. 50. Clearly, these valuations were strikingly lower than the value of the land with the existing improvements upon it.

In contrast, it was O'Brien's opinion that the value of the subject land, as vacant in 1999, was approximately $9,564,000. Using the cost approach, O'Brien concluded that the main structure had an accrued depreciation of 93% in 1999 with a replacement cost value of 7%. In order to arrive at a 1999 fair market value of $14,370,708, O'Brien converted the 7% replacement cost value to approximately $4,676,000 and added the estimated amount of $130,848 for the depreciated value of site improvements to the land value of $9,564,000. (Tr., p. 52.) Similarly, in order to arrive at a 2003 fair market value of $14,370,710, O'Brien calculated the following values: $8,714,350 for the land, $4,936,968 for the building and $720,192 for the site improvements. (Tr., p. 65.)

Given the high percentage of depreciation for buildings over 80-years-old, O'Brien testified that he would not have exclusively relied upon the cost approach to determine the subject's fair market value as of 1999 and 2003. O'Brien testified that he would have considered the income and market sales approach to value the subject.

The factual determination of the highest and best use of the subject property dictates which method of valuation will ultimately be employed to determine the fair market value of property. See United Technologies Corp. v. East Windsor, 262 Conn. 11, 25-26, 807 A.2d 955 (2002). In the present case, the appraisers disagree. Hall determined that both the income approach and the market sales approach to value are applicable in this case. However, Vimini determined that only the market sales approach is viable.

Given that the subject property has been owner-occupied for approximately 90 years, including during the revaluation years 1999 and 2003, the court finds that the income approach is not a credible method to determine the subject's value.[1] Hall reported that the "historical use has been owner occupancy with the current layout and utility service being oriented toward single-tenant occupancy." (Plaintiff's Exhibit 1, p. 71.) In

1

Atria occupies one to two bays in the subject's main structure and does not pay rent. The parties stipulated on the record that Atria was on the premises as of June 2003. (Tr., p. 188.) See also Plaintiff's Post-Trial Brief, p. 33. Hall explained that "[f]or a period of time in the early 1990's, an attempt was made to achieve multi-tenant occupancy for the facility. A stabilized occupancy was never achieved as the cost of providing services, high collections losses and tenant turnover proved to be financially infeasible." (Plaintiff's Exhibit 1, p. 25.)

addition, an owner would need to recognize that the current condition of the buildings and the cost to renovate the buildings would make it difficult to lease. Hall properly concluded that "[t]he subject property is not considered an investment-grade property due to the historical occupancy and high levels of physical deterioration and functional obsolescence. There is potential for multi-tenant occupancy; however, the high cost of subdivision and utility submetering reduce the feasibility of such redevelopment at this time." (Plaintiff's Exhibit 1, p. 76.)

After taking into consideration the condition of the subject property and the opinions of both appraisers, the court finds that the market sales approach is the only credible approach to determine the fair market value of the subject as it existed on the dates of revaluation in 1999 and 2003. "In the sales comparison approach, the appraiser develops an opinion of value by analyzing similar properties and comparing these properties with the subject property. The comparative techniques of analysis applied in the sales comparison approach are fundamental to the valuation process. . . ." The Appraisal of Real Estate (12th Ed. 2001) p. 417. This means that property selected by the appraiser must be competitive with the subject. "To apply the sales comparison approach, an appraiser follows a systematic procedure: . . . Research the competitive market for information on sales transactions . . . that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property." Id., p. 422.

Hall's approach to value, using the market sales approach for the Grand List of October 1, 1999, resulted in the selection of six sales that formed a basis for his determination of the subject's value. Hall concluded that the subject had a fair market value of $3.00 per square foot or $4,240,000. Hall primarily selected sales that he described as being in poor to fair condition. However, from the court's inspection of the subject, the subject appears to be in fair condition rather than poor.

Five of the six sales that Hall selected for the 1999 revaluation are similar to the subject with respect to the age of the structures on the property. Hall's sales one through five were initially constructed between 1874 and 1920. Although these sales are also mill-type, industrial use properties, there is a significant difference: the subject has approximately 1,400,000 square feet of gross building area while Hall's sales one through five range from 160,000 square feet to 628,645 square feet. Furthermore, while the subject covers a large area of approximately 76.5 acres of land and includes a pond and a rail spur, Hall's sales one through five are dramatically smaller ranging from 2.97 acres to 22.82 acres.

Vimini testified that although Hall's sale one was purchased through bankruptcy proceedings in June 2001 for $790,000, the property sold for a higher price in order to develop residential condominiums. Hall reported that sale two was 60% occupied at the time of the reported sale in June 2001. This sale is smaller in area than the subject's main structure but appears to be structurally similar. Sale five was 61% occupied at the time of its sale in June 1998 and had 90% seller financing. Sale six was a one-story building built in 1968. It has ceiling heights that exceed the subject and contains 1,162,167 square feet of gross building area. Sale six, however, has little in common with the subject other than approaching its gross building area.

For the revaluation of October 1, 2003, Hall considered six sales and one offer of sale. More than half of these selections were out-of-state properties. Sale one occurred in March 2004 in Reading, Pennsylvania. This property has four buildings constructed in sections between 1925 and 1978 containing 1,219,666 square feet of gross building area.

Although Hall recognized that sale two, located in a cornfield in Coldwater, Ohio, was not a good comparable, he selected it in order to show the trend for the sale of large industrial buildings. Sale three, in Danville, Virginia, consisted of vacant buildings donated to a local historical society and then sold to investors. The buildings, containing 700,000 square feet of gross building area, were built in the late 1800s and early 1900s and were in poor condition.

Sale four, located at 409 Washington Avenue in North Haven, Connecticut, consisted of five buildings constructed from 1945 to 1955 containing 1,185,625 square feet. The property was formerly an engine manufacturing facility for United Technologies Corporation (UTC). It was sold in December 2001 for $3,000,000. Sale five, located at 75 Aircraft Road in Southington, Connecticut, consisted of three buildings constructed from 1942 to 1968 containing 755,173 square feet. This property was encumbered with environmental problems.

Sale six, located near Buffalo, New York in Jamestown, New York, sold for $1,259,300 in July 2001. The property consisted of multiple buildings constructed between 1900 and 1980 containing 511,000 square feet. The property was 40% occupied at the time of sale and Hall considered it to be in poor to fair condition. The seventh property was an offer of sale in the amount of $3,500,000 for a single building with 1,029,000 square feet in Fulton, New York. The property was a former chocolate factory and in poor to fair condition.

As discussed above, Hall's approach to value, using the market sales approach for the Grand List of October 1, 2003, resulted in the selection of six sales and an offer of sale that formed a basis for his final conclusion of the subject's value at $3,500,000. Hall determined that the subject had a fair market value ranging between $2.25 and $2.50 per square foot or between $3,179,000 and $3,533,000.

The city's fair market value of the subject for the Grand List of October 1, 1999 is based on Vimini's opinion as expressed in his appraisal report. See Defendant's Exhibit A. As discussed below, Vimini's final conclusion of the subject's value was $14,660,000, as of October 1, 1999, based on five sales he selected as comparable to the subject buildings and three sales for the valuation of vacant land. See Defendant's Exhibit A, pp. 67-68.

Sale one occurred on March 31, 2000 for $3,476,700.[2] The property, located in Hartford, Connecticut on 5.18 acres of land, consisted of nine buildings containing a total of 416,971 square feet. The buildings were either attached or standing alone and located on opposite sides of Park Street in an I-2 zone.[3] Assembly, manufacturing and warehouse uses have been conducted in the various buildings. The buildings have four or five stories and ceiling heights range between ten and sixteen feet. The structures were built between 1900 and 1985 and large sections of the buildings have been converted for use as a self-storage facility. Despite the presence of detached buildings in sale one, the court finds that, except for land size, there are many similarities between sale one and the subject's main structure.

Sale two occurred on October 15, 1998 for $5,800,000.[4] The property, located in Stamford, Connecticut on 12.87 acres of land, consisted of three buildings containing a total of 248,769 square feet. The structures were built between 1940 and 1980 in an industrial zone and each building has one, 1.5 or two floors with the upper floors requiring renovation.

2

The sale price was $8.34 per square foot, unadjusted.

3

The property has multiple addresses, namely, 1390-1400, 1403-1409, 1429, 2074 and 2100 Park Street.

4

The sale price was $23.32 per square foot, unadjusted.

Sale three, located in Southington, Connecticut on 45.74 acres of land in an IP-1 zone, is a single-story building constructed in 1950 containing 481,719 square feet of gross building area. UTC purchased this property from Arawana Mills Company on December 18, 1998 for $7,500,000.[5]

Sale four, located in Bristol, Connecticut on 67.49 acres of land in an I-2 zone, is a single and two-story section building containing 408,112 square feet of gross building area. The structure was built of masonry and steel between 1961 and 1974 and was used for warehousing and manufacturing. This property was purchased on July 12, 2000 for $8,663,300[6] in order to convert it to multi-occupant use.

Sale five, located in East Hartford, Connecticut on 39.94 acres of land in an I-2 zone, is a single-story building containing 545,248 square feet of gross building area. The structure was built of masonry and steel in 1959 and was used as a warehouse. The ceiling height of the structure is 25 feet in warehouse areas. This property was sold on March 30, 1998 for $7,200,000.[7] Given the age and design of the structure in sale five, the court finds that it has little in common with the subject.

The subject property has several strong features in comparison to the sales selected by Hall and Vimini. These strengths include:

---

5 The sale price was $15.32 per square foot, unadjusted.

6 The sale price was $21.23 per square foot, unadjusted.

7 The sale price was $13.21 per square foot, unadjusted.

1) frontage on U.S. Route 1;

2) proximity to major thoroughfares I-95, Merritt Parkway (Route 15), Route 8 and Route 25;

3) proximity to Bridgeport Harbor, a deep water port and

4) proximity to New York City.

As discussed above, the subject property covers a large area of approximately 76.5 acres of land, including a rail spur and pond, and has a main structure containing approximately 1,400,000 square feet of gross building area in fair condition. The roofs have been periodically repaired but appear to be problematic and expensive to adequately maintain.

Given that the main structure of the subject is comprised of thirteen, five-story, interconnected buildings and has its own powerhouse and parking for 2,000 vehicles, the court finds that the subject property is significantly different from the sales selected by Hall and Vimini. However, some of the sales selected by Hall and Vimini give direction to the court in determining the fair market value of the subject on the revaluation dates in issue.

While it is possible to speculate on the highest and best use of the subject consistent with the uses contained in the applicable I-LI zone, the court is charged with determining the value of the subject as it existed on October 1, 1999 and October 1, 2003. "Purely imaginative or speculative value should not be considered." (Internal quotation marks omitted.) Robinson v. Westport, 222 Conn. 402, 409, 610 A.2d 611 (1992).

The subject property has unique and positive attributes that are superior to the so-called comparable sales selected by Hall and Vimini. The court also recognizes that Hall valued the subject land itself, at the time of the revaluations in 1999 and 2003, at $11,600,000 and $12,500,000, respectively, subject to his deductions for demolition. In addition, both appraisers valued the subject based upon the total square footage of the main structure. However, it is clear that floors D and E, the fourth and fifth floors of the main structure, have been vacant since 1992 because of their poor physical condition. Therefore, it is not credible to expect a willing buyer in 1999 and 2003 to purchase the subject with the expectation of occupying floors D and E without incurring substantial renovation costs.

Upon review of the sales selected by Hall and Vimini and their rationales for adjustments to the sales; after consideration of the subject's strengths and deficiencies as discussed above and recognizing that the process of valuation is not an exact science[8], the court concludes that $11.00 per square foot is a credible resolution, especially when there is a paucity of good comparable sales. This determination of value is based on 857,824 square feet, which is the gross building area for the first three floors of the subject still in use as of the revaluation dates, plus the powerhouse's gross building area of 19,437 square feet. As a result, the court finds that the fair market value of the subject property as of October 1, 1999 was $9,649,871, rounded to $9,650,000.

8

See MacLean v. Town of Darien, 43 Conn. App. 169, 173, 682 A.2d 1064, cert. denied, 239 Conn. 943, 686 A.2d 122 (1996).

With regard to the valuation of the subject property, as of the revaluation date of October 1, 2003, Hall considered the market sales approach and the income approach to arrive at a final conclusion of value at $3,500,000. Because Vimini did not appraise the subject for the October 1, 2003 revaluation, the court finds credible O'Brien's determination that the subject's valuation on the Grand List of October 1, 1999 was substantially the same as on the Grand List of October 1, 2003.

The court sees little distinction, if any, between the valuation processes used for the Grand Lists of October 1, 1999 and October 1, 2003. Moreover, the subject property remained substantially the same from October 1, 1999 to October 1, 2003. Therefore, the court finds that it is inappropriate to revisit the valuation process of the subject because the court's analysis of the relative facts remains the same for October 1, 2003.

Independent of the issue of valuation in this case, the plaintiff objects to the assessor's imposition of a penalty for the 2004 tax year for GE's failure to file income and expense information on the subject property pursuant to General Statutes § 12-63c (a).[9] In view of this court's finding that the subject property was not income producing

---

9

General Statutes § 12-63c (a) provides: "In determining the present true and actual value in any town of real property used primarily for purposes of producing rental income, the assessor . . . shall have power to require, subject to the conditions in subsection (b) of this section, in the conduct of any appraisal of such property pursuant to the capitalization of net income method, as provided in section 12-63b, that the owner of such property annually submit or make available to the assessor not later than the first day of June, on a form provided by the assessor, the best available information disclosing the actual rental and rental-related income and operating expenses applicable to such property."

property, it was inappropriate for the assessor to impose such a penalty on GE and such penalty is therefore void.

Accordingly, judgment may enter in favor of the plaintiff, without interest, finding that the fair market value of the subject, as of the revaluation dates of October 1, 1999 and October 1, 2003, was $9,650,000. Costs shall not be awarded to either party.

Arnold W. Aronson
Judge Trial Referee